

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
WASHINGTON, D.C. 20240  
<http://www.blm.gov>

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Instruction Memorandum No. 2007-144  
Expires: 9/30/2008

**To:** Assistant Directors, State Directors, and Center Directors

**From:** Acting Assistant Director, Minerals, Realty and Resource Protection

**Subject:** Site Inspections of Formerly Used Defense Sites (FUDS) on Lands  
Managed by the Bureau of Land Management (BLM)

**Program Area:** Resource Protection and Lands

**Purpose:** This Instruction Memorandum (IM) provides policy guidance to the Bureau of Land Management (BLM) Field Offices to supplement H-1703-2, Military Munitions and Explosives of Concern. This supplemental policy addresses site access requirements and dispute resolution procedures when dealing with the U.S. Army Corps of Engineers (Corps) or their contractors during site inspections of Formerly Utilized Defense Sites (FUDS). The BLM will adhere to the Statement of Principles, signed by the Department of the Interior (DOI) and provided as attachment 1, which outlines coordination between Federal agencies with respect to the FUDS program.

**Policy/Action:**

The BLM Field Offices should work closely with the Corps to identify areas of concern with respect to military munitions. Once a FUDS site is identified, the Corps has the authority and responsibility under the Defense Environmental Restoration Program (DERP), established by Section 211 of the Superfund Amendments and Reauthorization Act (SARA) of 1986, to conduct remediation pursuant to the Comprehensive Environmental Response, Compensation, and

Liability Act (CERCLA) to address contamination as a result of Department of Defense (DOD) activities. In conducting FUDS cleanups, the Corps is required to comply with the National Contingency Plan (NCP), established under CERCLA, and also to ensure that cleanup complies with all Applicable or Relevant and Appropriate Requirements (ARARs).

The local BLM Field Office is to coordinate ongoing land management activities at these sites with the Corps in a manner that promotes prompt site inspection and eventually will facilitate clean-up of the explosive hazard.

The Corps is the lead for the DOD for the execution of the FUDS program. The Corps follows CERCLA for cleanup of FUDS and their own internal guidance in Engineering Manual 200-3-1. The Technical Project Planning Process (TPP) is the process that the Corps uses to execute a site assessment and cleanup. The BLM's Field Offices should participate in stakeholder meetings and activities of the TPP process for FUDS sites within their geographic areas of responsibility when public lands are within or adjacent to the FUDS.

Site inspections are non-intrusive, investigative activities, conducted by the Corps and designed to identify and classify areas for possible remediation. Because of the non-intrusive nature of these site investigations and the short congressionally-mandated timeframe allotted to conduct the investigations, the BLM's Field Offices should coordinate with the Corps to facilitate the FUDS Site Inspection work.

In order to facilitate site access requirements, the BLM, in consultation with the Corps Headquarters, has developed letter templates (attachment 2) for the Corps' initial notification to the BLM's Field Office and for the BLM response. The BLM response letter template may be modified, as appropriate, to include local issues of concern such as the BLM's understanding of the presence of munitions on BLM managed lands, or such issues as the location of sensitive archeological, cultural, or ecological resources. The BLM letter template also should provide information regarding the local BLM point of contact.

In the event that disputes arise between a local BLM Field Office and the Corps or contractors, the Field Office manager will notify the State Office, via the State Office Hazardous Materials Lead, as to the nature of the dispute. The State Office should expeditiously work with the Corps Division Office to resolve the dispute. It is in the BLM's interest to have FUDS sites investigated and cleaned up by the Corps and to expedite access. If access is not granted, the Corps may move

operations to other non-BLM sites, which could significantly delay the clean up of the BLM FUDS site.

Most disagreements arising during the course of site investigations can and should readily be resolved at the Field or State levels. However, if the Field Office/ State Office cannot satisfactorily resolve the dispute in a timely manner, the matter should be elevated to the Washington Office Hazmat Program Lead to be resolved at the national level between Agencies.

**Timeframe:** Effective upon issuance.

Background: The military services have used public lands for military training and testing since the founding of the Nation. In many cases, when the lands were no longer needed by the military, the lands were returned to the BLM for management under the public land laws and mining and mineral laws. The BLM manages more than 15 million acres of lands previously used by the military. When the military returned these lands to the BLM, they were often only partially cleared of munitions, hazardous materials and abandoned buildings. Congress established the FUDS program under the Defense Environmental Restoration Act (DERA) to address the issues of residual contamination on FUDS as a result of DOD activities. Not all formerly used military lands qualify for the FUDS program. The lands of primary importance to the BLM with respect to the FUDS program are lands that were transferred from the military to the BLM prior to October 17, 1986. Lands transferred after this date are environmentally restored under other military environmental programs.

The DOI is a signatory to the Statement of Principles for Collaborative Decision Making for Cleanup of Formerly Used Defense Sites on Federal Lands and DOI has adopted various “White Papers” developed by the Munitions Response Committee (MRC). The MRC is comprised of representatives from all the military services and DOD policy makers. Regulatory partners include the Environmental Protection Agency (EPA), states, American Indians, Native Alaskans, and other federal land managers such as the Departments of the Interior and Agriculture. The MRC strives to reach consensus on munitions response policy and technical issues through the use of a collaborative decision making process. The MRC white papers, in addition to the laws, regulation, manuals and handbooks, provide the framework for the Corps/ BLM collaborative effort to reduce and manage risk on FUDS located on public lands.

**Budget Impact:** This IM has no effect on budget.

**Manual/Handbook Sections Affected:** Manual Section 1703 and handbook H-1703-2

**Coordination:** This IM has been coordinated with the Division of Lands, Realty and Cadastral Survey and the DOI Office of Environmental Policy and Compliance.

**Contact:** Robert Jolley at (202) 557-3562 or Miyoshi Stith at (202) 557-3578 in the Division of Engineering and Environmental Services.

Signed by:  
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Acting, Assistant Director  
Minerals Realty and Resource Protection

Authenticated by:  
Robert M. Williams  
Division of IRM Governance, WO-560

2 Attachments

[1 - Statement of Principles \(8 pp\)](#)

[2 - Letter Templates \(4 pp\)](#)

Section 121 (d) of CERCLA requires that cleanups protect human health and the environment and also comply with requirements or standards imposed by other Federal and state environmental laws – typically referred to as ARARs.